

BEFORE THE  
SHORELINES HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF A SHORELINE  
VARIANCE PERMIT GRANTED BY  
PIERCE COUNTY AND DISAPPROVED  
BY DEPARTMENT OF ECOLOGY,

PAUL J. PUTNAM and PIERCE  
COUNTY

Appellants,

V.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

and

J. ALBERT and NORMA BREVIK,

Intervenors.

SHB No. 84-46

ORDER DISMISSING REQUEST  
FOR REVIEW AT APPELLANTS'  
REQUEST

Appellant, Paul J. Putnam, filed his request to withdraw his  
request for review on January 29, 1985.

Appellant, Pierce County filed its request to withdraw on  
February 11, 1985 (dated February 8, 1985).

Having considered the above and:

1. Intervenor's Objection and Memorandum filed February 8, 1985, and
2. Letter of respondent Department of Ecology dated February 8, 1985 and filed that date, and
3. the records and file herin and being fully advised, the Board finds:

That pursuant to WAC 461-08-010 the pre-trial rules of procedure before Superior Courts of the State of Washington apply to these proceedings as in civil cases, and

That under CR41(a) the appellants have each requested dismissal before resting at the conclusion of their case, and such dismissal is mandatory, and

That intervenors have requested the following relief:

a. An Order affirming the denial by the State of Washington, Department of Ecology of the Shoreline Management Variance Permit No. 490-14-3627, PAUL PUTNAM, Applicant, and

b. An Order requiring the Appellant to dismantle the existing deck structure constructed in violoation of Pierce County Shoreline Use Regulations 65.62.050(C), (D), (4) (b) and Pierce County Shoreline Use Regulations 65.76.300, and

c. An Order requiring the Appellants to build their deck, if at all, no higher than four (4) feet from the finished ground level in accordance with Pierce County Shoreline Use Regulation 65.62.050(D) (4) (b); and

d. For such other and further relief as the Board deems required under the Shorelines Management Act, the Pierce County Master Program,

ORDER DISMISSING  
REQUEST FOR REVIEW  
SHB No. 84-46

1 and the Pierce County Shoreline Use Regulations.

2 That under CR41(a)(3) the first demand constitutes a defense,  
3 not a counterclaim. That the second, third and fourth demands  
4 constitute counterclaims for mandatory orders which are beyond the  
5 jurisdiction of the Board to issue, and therefore this request for  
6 review must be dismissed. This is not a determination on the  
7 merits of any issue herein.


8 NOW THEREFORE IT IS ORDERED THAT this request for review is  
9 dismissed.

10 DONE at Lacey, WA this 19<sup>th</sup> day of February, 1985.

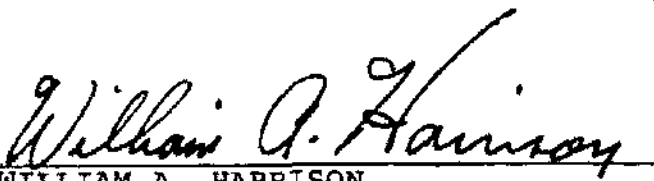
11 SHORELINES HEARINGS BOARD

12  2/14/85  
13 LAWRENCE J. FAULK, CHAIRMAN

14   
15 DENNIS DERICKSON, MEMBER

16   
17 WICK DUFFORD, LEGAL MEMBER

18   
19 NANCY BURNETT

20   
21 WILLIAM A. HARRISON  
22 Administrative Appeals Judge

23 ORDER DISMISSING  
24 REQUEST FOR REVIEW  
25 SHB No. 84-46